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September 28, 2018

BY ELECTRONIC MAIL

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Environmental Protection Division
One Ashburton Place, 18th Floor
Boston, MA 02108

RE: United States of America, and the Commonwealth of Massachusetts, v. Lynn
Water And Sewer Commission, Civil Action No. 76-cv-02184-RGS

Dear Counsel:

This letter is sent on behalf of the Lynn Water & Sewer Commission (“Commission”) in response to your letter dated September 18, 2018, in which you presented inquiries regarding the Final Preliminary Design Report (“PDR”) submitted on July 30, 2018, for the West Lynn sewer separation projects (the “West Lynn Sewer Separation Projects”). In particular, you asked the Commission to advise you of: (1) the specific steps the Commission is taking, and the timeline, with respect to the Article 97 process for the use of Neptune Park; and (2) the Commission’s intentions and proposed deadlines for development of an alternative design for successful completion of the West Lynn Sewer Separation Projects that provides for a different pump station location that does not rely on Article 97 approval to be implemented.

The Commission provided an implementation schedule in the PDR that carefully considered and accounted for the Article 97 process, outlined in Table 15-1 of the PDR:

Step	Duration (days)
Negotiate Mitigation	125
Prepare Land Transfer Documents	30
Submit Package to Legislative Sponsor	1
Article 97 Land Transfer Approval	550

The Implementation Schedule included in Appendix K of the PDR identified time for permitting, design changes and schedule float, while still complying with the TMCD deadline of construction of the pump station and associated infrastructure by October 31, 2023. The following identifies how the specific steps in the permitting process are proposed to be implemented:

	2018				2019												2020												2021													
<u>Project Phase</u>	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12		
PDR Schedule PHASE 3 - Pump Station					1																																					
Negotiate Mitigation (125 days)																																										
Con Comm, Parks, City Council																																										
EEA Process																																										
Prepare Land Transfer Documents (30 days)																																										
Submit Package to Sponsor (1 day)																																										
Article 97 Land Transfer Approval (550 days)																																										

- The Commission is in the process of defining the park area to be occupied and drafting a mitigation plan.
- The Commission plans to begin negotiating mitigation with the Lynn Conservation Commission, Park Commission, and City Council by November 2018. The Commission conducted a project briefing on September 25, 2018, at the City Council's Economic and Workforce Development Subcommittee Meeting.
- The Commission plans to begin the EEA/MEPA Process by January 2019.
- The Commission plans to prepare Land Transfer Documents by May 2019.
- The Commission plans to submit the package to the Legislative Sponsor by June 1, 2019.

As illustrated above, the Implementation Schedule in the PDR allows for up to 550 days for Legislative approval before bidding begins for the pump station. If approval of the Article 97 Land Transfer has not occurred by June 1, 2020, the Commission can initiate an alternative design for the pump station in time for the proposed bidding schedule in the PDR. The PDR identified an alternative location for the pump station that does not rely on a supermajority Article 97 vote of the General Court for it to be implemented. The alternative location is not as advantageous to the Commission for hydraulic and logistical design considerations, particularly for forecasted coastal inundation and rainfall. The proposed pump station location at Neptune Park is at the hydraulic low point in the system as well as a location of existing surface flooding. In addition, the Neptune Park location simplifies the difficult utility crossings of the MBTA rail line and Route 1A.

It is the Commission's position that simultaneously designing two pump stations is an unnecessary cost to add to the project at this time. The pump station could be constructed at the alternative site within the project schedule and with minimal changes to the other project phases, if required. Discussions with the Mayor's office and other stakeholders have been supportive of the proposed pump station site.

Letter to EPA and DEP re: TMCD Schedule

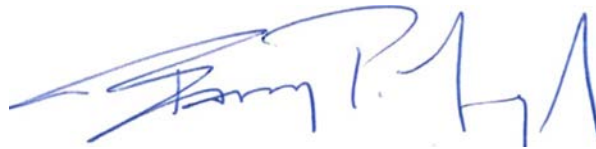
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The Commission looks forward to continued engagement with the Massachusetts Department of Environmental Protection and addressing concerns in a timely manner. If there are additional comments on the PDR, please communicate those as soon as possible. Final design is well underway and the Commission would like to address comments before they impact the very ambitious design schedule.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Barry P. Fogel", with a stylized flourish at the end.

Barry P. Fogel

BPF/pf

cc: Daniel O'Neill, LWSC